

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Charter Communications, Inc.)	File No. EB-03-TS-090
)	
Operator of 153 Cable Systems in 24 States)	
)	
Petition for Declaratory Relief and/or Waiver of)	
the Commission's Emergency Alert System)	
Requirements for Cable Television Systems)	

ORDER

Adopted: July 21, 2004**Released: July 21, 2004**

By the Director, Office of Homeland Security, Enforcement Bureau:

1. In this *Order*, we grant Charter Communications, Inc. (Charter) a temporary waiver of section 11.11(a) of the Federal Communications Commission's (Commission) Rules for the 153 cable television systems in 24 states listed in Appendix A. Section 11.11(a) required that, no later than October 1, 2002, cable systems serving fewer than 5,000 subscribers from a headend provide national level Emergency Alert System (EAS) messages on all programmed channels, or provide such messages on at least one programmed channel, with video interrupts and audio alerts on all other programmed channels.¹

2. The Cable Act of 1992 added new section 624(g) to the Communications Act of 1934, which requires that cable systems be capable of providing EAS alerts to their subscribers.² In 1994, the Commission adopted rules requiring cable systems to participate in EAS.³ In 1997, the Commission amended the EAS rules to provide financial relief for small cable systems.⁴ The Commission declined to exempt small cable systems from the EAS requirements, concluding that such an exemption would be inconsistent with the statutory mandate of section 624(g).⁵ However, the Commission extended the

¹ 47 C.F.R. § 11.11(a).

² Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, § 16(b), 106 Stat. 1460, 1490 (1992). Section 624(g) provides that "each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations" 47 U.S.C. § 544(g).

³ *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System*, Report and Order and Further Notice of Proposed Rule Making, 10 FCC Rcd 1786 (1994), *reconsideration granted in part, denied in part*, 10 FCC Rcd 11494 (1995).

⁴ *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System*, Second Report and Order, 12 FCC Rcd 15503 (1997).

⁵ *Id.* at 15512-13.

deadline for cable systems serving fewer than 10,000 subscribers to begin complying with the EAS rules to October 1, 2002, and provided cable systems serving fewer than 5,000 subscribers the option of either providing national level EAS messages on all programmed channels or installing EAS equipment and providing a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel.⁶ In addition, the Commission stated that it would grant waivers of the EAS rules to small cable systems on a case-by-case basis upon a showing of financial hardship.⁷

3. On August 14, 2002, Charter filed a petition for declaratory relief and/or waiver seeking Commission approval of an alternative means for approximately 146 small cable systems that have digital transmission capability (participating systems) to comply with the EAS rules. Specifically, Charter requests that the Commission declare that it can satisfy the EAS rules by using a satellite communications system to deliver national EAS messages to the participating systems and that it need not install a full set of EAS equipment at each of the systems in order to receive and retransmit the national EAS messages. At the request of the Enforcement Bureau, Charter supplemented its petition on May 30, 2003 to provide additional background on testing and monitoring, and again on December 8, 2003 to clarify that the number of cable systems for which it was seeking relief was 153, not 146. In May, 2004, Charter withdrew its request for a declaratory ruling filing, asking rather that we treat its petition as a timely filed (*i.e.*, as of August 14, 2002) request for a waiver of the requirement to install EAS equipment at each of the subject small cable systems.⁸

4. Charter asserts that installing a full set of EAS equipment at each of the participating systems would impose a significant financial burden on the company. In this regard, Charter states that, using the Commission's estimated equipment cost of \$6,000 to \$10,000 per system,⁹ the total cost of EAS equipment for the participating systems would be between \$876,000 and \$1,460,000. Based on our review of the information provided by Charter, we agree that Charter has shown sufficient economic hardship to warrant temporary waivers of section 11.11(a) of the Rules for the 153 cable systems listed in Appendix A, and grant Charter a waiver of these rules until October 1, 2005.¹⁰

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 0.111, 0.204(b) and 0.311 of the Rules,¹¹ Charter Communications, Inc. **IS GRANTED** a waiver of Sections 11.11(a), 11.52(d) and 11.61 of the Rules as specified herein and the request for a declaratory ruling **IS DISMISSED AS MOOT** because it was withdrawn by Charter Communications, Inc.

⁶ *Id.* at 15516-15518.

⁷ *Id.* at 15513.

⁸ E-mail confirmation of agreement concerning this matter dated May 28, 2004.

⁹ *Second Report and Order*, 12 FCC Rcd at 15515.

¹⁰ As in past cases, this waiver also extends to the EAS monitoring and testing requirements. We recognize that we do not reach the merits of Charter's proposal that its satellite system can substitute for the EAS system provided for in our rules. We note that the Commission intends to initiate a proceeding in the near future to explore certain issues, including the application of EAS to digital and satellite technologies.

¹¹ 47 C.F.R. §§ 0.111, 0.204(b) and 0.311.

6. **IT IS FURTHER ORDERED** that Charter Communications, Inc. place a copy of this waiver in its system files.

7. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by certified mail return receipt requested to counsel for Charter Communications, Inc., Steven J. Horvitz, Esq., Cole, Raywid & Braverman, L.L.P., 1919 Pennsylvania Avenue, N.W., Suite 200, Washington, D.C. 20006.

FEDERAL COMMUNICATIONS COMMISSION

James A. Dailey
Director, Office of Homeland Security
Enforcement Bureau

Appendix A

Charter Communications, Inc.

<u>Cable System</u>	<u>All Temporary Waivers Granted Until</u> October 1, 2005	<u>PSID</u>
Berry, Alabama		011361
Cedar Bluff, Alabama		008707
Centerville, Alabama / Centerville, Tennessee		002280
Centerville, Alabama / Centerville, Tennessee		008877
Cherokee, Alabama		000290
Colombiana, Alabama		002282
Curry, Alabama		015471
Double Springs, Alabama		015472
Elgin, Alabama		006028
Gurley, Alabama		011236
Hackberry, Alabama		009809
Haleyville, Alabama		000102
Heflin, Alabama		001131
Henegar, Alabama		003279
Hokes Bluff, Alabama		010710
Lay Lake, Alabama		016682
Leighton, Alabama		009746
Locust Fork, Alabama		012037
Oakman, Alabama		015473
Rainsville, Alabama		008121
Southside, Alabama		010711
Thorsby, Alabama		009683
Trafford, Alabama		011965
West Blockton, Alabama		013995
Westover, Alabama		012036
Hardy, Arkansas		005387
Maumelle, Arkansas		003298
King City, California		003172
Soledad, California		008541
Julesburg, Colorado		006734
Cusetta, Georgia		013366
Greenville, Georgia		009208
Greenville, Georgia		009238
Woodbury, Georgia		009239
Zebulon, Georgia		009237

<u>Cable System</u>	<u>All Temporary Waivers Granted Until</u> October 1, 2005	<u>PSID</u>
Anna, Illinois		006881
Mount Carmel, Illinois		005160
Fairfield, Indiana		000142
Fairfield, Indiana		002375
Hillsboro, Indiana / Hillsboro, West Virginia		003966
Hillsboro, Indiana / Hillsboro, West Virginia		007941
Mitchell, Indiana		002818
Mitchell, Indiana		014525
Black Mountain, Kentucky		011453
Boyle, Kentucky		013473
Columbia, Kentucky		000001
Columbia, Kentucky		000033
Columbia, Kentucky		000292
Columbia, Kentucky		008186
Eolia, Kentucky		008044
McKinney, Kentucky		002471
Wallins Creek, Kentucky		007030
Basile, Louisiana		008688
Cameron, Louisiana		009810
Cameron, Louisiana		020300
Esterwood, Louisiana		012458
Ferriday, Louisiana		000881
Iowa, Louisiana		008691
Jonesville, Louisiana		000886
Merryville, Louisiana		011410
Olla, Louisiana		007046
Crisfield, Maryland		008138
Newberry, Michigan		001527
St. Ignace, Michigan		001525
Babbitt, Minnesota		000926
Balaton, Minnesota		005803
Canby, Minnesota		004066
Ely, Minnesota		004094
Glencoe, Minnesota		009817
Glencoe, Minnesota		013666
Montevideo, Minnesota		003105
Tower, Minnesota		012093

<u>Cable System</u>	<u>All Temporary Waivers Granted Until</u> October 1, 2005	<u>PSID</u>
Belmont, Mississippi		007212
Burnsville, Mississippi / Burnsville, West Virginia		007200
Burnsville, Mississippi / Burnsville, West Virginia		007644
Burnsville, Mississippi / Burnsville, West Virginia		009286
Fayette, Mississippi		010963
Bowling Green, Missouri / Bowling Green, Virginia		002679
Bowling Green, Missouri / Bowling Green, Virginia		004475
California, Missouri		006046
El Dorado Springs, Missouri		004085
Nevada, Missouri		001876
Potosi, Missouri		005593
Vandalia, Missouri		005549
Versailles, Missouri		007197
West Plains, Missouri		011635
Broken Bow, Nebraska		002764
Chadron, Nebraska		028197
Gordon, Nebraska		028297
Mc Cook, Nebraska		002744
Gates, North Carolina		014077
Kenly, North Carolina		010955
Princeton, North Carolina		010956
Troy, North Carolina		001139
Troy, North Carolina		004609
Troy, North Carolina		005964
Troy, North Carolina		010268
Haileyville, Oklahoma		000427
Longtown, Oklahoma		010835
Verdigris, Oklahoma		020304
Wilburton, Oklahoma		020324
Myrtle Creek, Oregon		000505
Iva, South Carolina		008949
Clifton, Tennessee		014458
Flintville, Tennessee		016358
Loretto, Tennessee		007713
McEwen, Tennessee		010512
Mountain City, Tennessee		007708

<u>Cable System</u>	<u>All Temporary Waivers Granted Until</u> October 1, 2005	<u>PSID</u>
Ten Mile, Tennessee		013378
Sneedville, Tennessee		000387
Waynesboro, Tennessee		004080
Alvarado, Texas		009998
Bracketville, Texas		004381
Coleman, Texas		000740
Coleman, Texas		003442
Coleman, Texas		011665
Colorado City, Texas		007759
Comanche, Texas		006418
Devine, Texas		010559
Haskell, Texas		005418
Shiner, Texas		005244
Wills Point, Texas		012523
Accomack, Virginia		001804
Belle Haven, Virginia		005659
Cape Charles, Virginia		010579
Clarksville, Virginia		007709
Clarksville, Virginia		008497
Colonial Beach, Virginia		001136
Damascus, Virginia		009491
Farmville, Virginia		000532
Lawrenceville, Virginia		000610
Lawrenceville, Virginia		001135
Tappahonnock, Virginia		002680
Warsaw, Virginia		003575
Warsaw, Virginia		003583
Warsaw, Virginia		006988
Ansted, West Virginia		007967
Bellington, West Virginia		002610
Dingess, West Virginia		010596
Gassaway, West Virginia		003194
Gilbert, West Virginia		009595
Glenville, West Virginia		007945
Grantsville, West Virginia		000569
Harrisville, West Virginia		000568
Harts, West Virginia		009890
Jenkins, West Virginia		000141
Matewan, West Virginia		010960
Page, West Virginia		020285

<u>Cable System</u>	<u>All Temporary Waivers Granted Until</u> October 1, 2005	<u>PSID</u>
Richwood, West Virginia		000389
Scarbro, West Virginia		005732
Webster Springs, West Virginia		002017
Lancaster, Wisconsin		000622
Wautoma, Wisconsin		006013